

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

GLENN R. WAITE, Individually)
and as Personal Representative)
of the Estate of Harriet I.)
Waite, deceased,)
)
 Plaintiff,) 7:08CV5000
)
)
 v.)
)
)
ANN ROSENBERRY, CLERK OF) ORDER
DISTRICT COURT IN AND FOR THE)
COUNTY OF SCOTTS BLUFF,)
NEBRASKA; RANDALL L.)
LIPPSTREU, JUDGE OF DISTRICT)
COURT IN AND FOR THE COUNTY)
OF SCOTTS BLUFF, NEBRASKA,)
JANE DOE, REAL NAME UNKNOWN,)
JON BRUNING, NEBRASKA ATTORNEY)
GENERAL; JANICE K. WALKER;)
NANCY ADAMS; and ALYCE)
MAUPIN, R.N.,)
)
 Defendants.)
)
_____)

This matter is before the Court on plaintiff's Rule 59(e) Motion to Alter or Amend the Judgment filed August 20, 2009 (Filing No. 61). The motion will be denied.

Plaintiff's motion is brought pursuant to Federal Rule of Civil Procedure 59(e) and argues that the court "erred" when it entered its Order and Judgment on August 20, 2009 (Filing No. 60.) As set forth by the Eighth Circuit "Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence. . . . Such motions cannot be used to introduce new evidence, tender new

legal theories, or raise arguments which could have been offered or raised prior to entry of judgment." U.S. v. Metro. St. Louis Sewer Dist., 440 F.3d 930, 933 (8th Cir. 2006) (internal citations and quotations omitted).

Here, plaintiff simply reargues the merits of his case. In particular, plaintiff asserts various arguments and legal theories regarding the Court's memorandum opinion which dismissed plaintiff's claims because he lacked standing to bring his claims (Filing Nos. 59 and 60). In his motion and supporting briefs, plaintiff does not point to any manifest error or new evidence. Instead, he objects to the Court's ruling and argues the merits of his claims in this matter. Plaintiff may have advanced those theories and arguments prior to dismissal but chose not to do so. Thus, plaintiff is not entitled to relief under Rule 59(e).

IT IS ORDERED that plaintiff's Motion to Alter or Amend Order and Judgment (Filing No. 61) is denied.

DATED this 19th day of November, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court